

Excerpts
Planning Commission Minutes
August 13, 2003

Application No. PD-15-03, McCale Development Corporation: Request to amend the conditions of approval for the Colony Pines Planned Development to be located on approximately 127.6 acres of land on the north side of Denbigh Boulevard (Route 173) at the Newport News city line approximately 1.95 miles west of the intersection of Denbigh Boulevard and Route 17. Specifically, the applicant is requesting to amend Ordinance No. O92-35(R) by increasing the maximum permitted lot coverage for single-family detached homes in the development from 25% to 35% and by reducing the minimum distance between any two adjacent homes from 20 feet to 15 feet. The property, further identified as Assessor's Parcel Nos. 28-1, 28-2, and 28-4, is zoned PD (Planned Development) and designated *High-Density Residential in the Comprehensive Plan*.

Mr. Timothy C. Cross, AICP, Principal Planner, presented the summary of the staff memorandum to the Commission dated July 31, 2003, which addressed development density, housing affordability, fiscal and environmental impacts, public safety, consistency, and fairness. Mr. Cross said the applicant has applied for a revision to his master plan to increase maximum lot coverage ratio and reduce minimum building separation. He identified major differences between Planned Developments and open space (or cluster) developments and spoke of the contrast between the previously approved Planned Development plan for Colony Pines and the proposed plan (based on lot sizes and layouts of two existing open space developments) specifically with respect to lot layout. He mentioned fire safety risks that would be increased by reducing the distance between adjacent houses. Mr. Cross stated that the staff recommends *denial of the application because it is inconsistent with the Board intent, with housing goals of the Comprehensive Plan, and with Planned Development provisions of the Zoning Ordinance*.

Mr. Cross then responded to some of the points made by Mr. Billie M. Millner, attorney for the applicants, in a letter to the Planning Commission dated August 11, 2003.

Mr. Cross suggested that, should the Commission vote for approval, recommendations be included related to staggered yard setbacks and sprinkler systems or non-combustible exteriors, in accordance with recommendations received from the Department of Fire and Life Safety.

Mr. Harvell inquired about a discrepancy in the number of lots between the staff report (225 lots) and Mr. Millner (252 lots). **Mr. Cross** stated a development plan has been approved for 137 lots and the traffic impact analysis referred to an additional 88 lots and if the application is approved for a different number, he added, another traffic study would be required.

Chair Simasek opened the public hearing.

Billie M. Millner, Esquire, Jones Blechman Woltz & Kelly, PC, 600 Thimble Shoals Boulevard, Newport News, represented the applicant. He introduced Mr. Lewis McMurrin of McCale Development Corporation; home builders Messrs. Wayne Harbin and Mike Pickett, and

architect Mr. Brandon Currence. Mr. Millner stated that since the plan was originally approved as an extension of Colony Pines in Newport News, many things have changed, including the housing market that now demands larger homes with two-car garages and a downstairs bedroom. He said that without approval the applicant would build homes in the \$150,000 category, raising the issue of whether the County wants a typical Colony Pines home or a home that utilize the maximum potential of those lots.

Mr. Millner continued that the number and layout of the lots would not change. He believed the correct number of lots is 252, and the key thing is that the original approval was for 404 lots, which now has been reduced to 252. He talked about the size of lots in Davis Forge and Lilburne Meadow relative to his client's request. He noted that in a cluster development such as The Greenlands, there is no required floor area-to-lot size ratio. He disagreed that a 20-foot separation of houses is necessary for safety.

Mr. Millner estimated the fiscal impact to the County to be \$200,000 per annum in taxes, if approved. He did not believe the County wanted lower entry-type housing, and his applicant is not proposing that. The proposed homes would sell in the \$300,000 to \$400,000 category and would bring fewer children to the school system than a lower priced house. For instance, he added, The Greenlands averages 0.72 child per house.

Mr. Simasek noted the applicant focused on lot size and separation of houses, but believed the larger issue to be the total change of character of the development from that which was approved in 1993. **Mr. Millner** said it would be of a higher quality and an improvement over what was approved. **Mr. Simasek** believed this application to be entirely different from what was originally proposed, particularly in terms of housing affordability. **Mr. Millner** said the market for a typical purchaser in 1992 would have been met by what was approved, but his client is focusing on meeting today's housing market. **Mr. Simasek** asked if the applicant was suggesting that a typical new home in York County today is in the \$350,000 to \$400,000 range.

Mr. Lewis McMurran, 15188 Kennell Lane, Carrolton, Virginia, said his family has owned the acreage under consideration since 1955 and completed the first section of Colony Pines in 1983. Colony Pines has been market-driven from the beginning, he said, adding that Messrs. Harbin and Pickett have advised him that 25 percent minimum lot coverage does not allow the larger footprint for a single-story house with master bedroom downstairs that the market now demands.

Mr. Wayne Harbin, 110 Harbor Crescent, Seaford, said he has conducted general contracting business on Route 17 since 1985. He said he has not built a home in York County with a value less than \$300,000 in the last three years. He elaborated that 80 percent of houses he is building are two-story homes with the master bedroom downstairs or ranch-style houses, both of which require increased square footage on the first floor. A common trend to accommodate this, he continued, is to reduce the side yard setback from 20 to 15 feet, and stated that the International Building Code requires a protective sidewall on buildings separated by three feet.

Mr. Mike Pickett, 109 Jara Lane, president and owner of Mike's Homes, said he has been in the building business for more than 20 years. He is presently building homes in the last section of The Greenlands. He said the The Greenlands homes are around 3300 square feet in size and 75 percent of them have a bedroom downstairs, with no minimum or maximum lot coverages. He said the average housing market is \$360,000 to \$370,000. Mr. Pickett believed that Colony Pines should allow for a larger footprint than what was initially approved in order to meet the current market and have some consistency with new housing in the County.

There were no others to speak, and Chair Simasek closed the public hearing.

Mr. Harvell said the speakers appear to be proposing houses costing double the amount originally approved for the subject section of Colony Pines.

Mr. Millner said the developer is responsible for bringing sewer service from Route 17 and expanding Denbigh Boulevard, substantially increasing his offsite development cost before the first lot is sold. He asked if the County is looking for first class housing or not. He also mentioned the scarcity of lots for new homes.

Mr. Millner said Messrs. Harbin and Picket are the developer's preferred builders so they would like them to be allowed to build the type of homes that they want, requiring some flexibility by the County. He suggested that the Chair might talk with the members to see what can be worked out. **Mr. Simasek** asked if the applicant's agent is suggesting that the application be tabled. **Mr. Millner** said he was not, but he would not want an unfavorable vote for his client. He wanted to make it clear that the applicant had "no line drawn in the sand."

Mr. Harvell was concerned that the project is located on the Newport News-York County line, three miles from the Grafton fire station to the center of the home sites and even farther from the Newport News fire stations that could answer a call. He said life safety issues are a primary concern, different from those of The Greenlands and other subdivisions because of the relative distance to fire stations.

Mr. Millner said if the development is a good one it would pay for new fire stations and schools with increased taxes. **Mr. Harvell** did not think the amount of taxes from the proposed development would be sufficient for that.

Mr. McMurran said he has been paying large amounts of taxes in York County and he should not be held accountable because there is no fire station nearby. He said the existing houses in Colony Pines in Newport News are a minimum of 12 feet apart, compared with similar housing in Virginia Beach where houses are three to six feet apart.

Mr. Harbin said the building code provides for firewalls within three feet of a nearby house, and no locality in the state of Virginia requires a 15-foot house separation.

Mr. Harvell asked if the developer would consider adding sprinklers to the homes. **Mr. Harbin** replied that that was not an option. **Mr. Pickett** noted the Fire Code requires every bedroom to be equipped with a smoke detector, adding that Colony Pines does not have them because it was built under a less stringent code. He said the combustibility of homes decreases as the price increases.

Mr. Davis asked if the chances of a fire in the The Greenlands is less or greater than the chances of a fire at Colony Pines.

Mr. James Dishner, York County Fire Marshal, said the chances of having a fire would be the same in either subdivision. He added, however, the closer houses are to one another, the more danger to fire service personnel due to increased stress and the need for more fire fighting resources.

Mr. Hamilton asked if a Planned Development is required to provide affordable housing. **Mr. Cross** stated there is a section of the Planned Development provisions in the Zoning Ordinance that addresses "Affordable Housing Incentive Provisions" but Planned Developments, per se, are not required to provide affordable housing. He further stated the staff did consider that during its review of the application that Colony Pines was originally presented and approved for homes ranging from \$110,000 to \$130,000.

Mr. Simasek asked if the County could set restrictions addressing specific fire protection measures as a condition of approval or simply require construction standards to be subject to the Fire Chief's approval. **Mr. Cross** said the fire protection measures set forth in the draft resolution were recommended by the Fire Chief, so there would be no difference.

Mr. Simasek asked **Mr. McMurran** why the Colony Pines subdivision was not completed in the 1990's. **Mr. McMurran** said the number of lots was decreased because of wetlands and marketing issues. He started the process over in 2000 and a new development plan was approved.

Mr. Ptasznik asked if the builders are prepared to build a percentage of ranch-style homes and **Mr. Pickett** said he planned to build a minimal number of ranchers under the current provisions.

Mr. McMurran mentioned the infrastructure costs that he has shouldered.

Mr. Barba inquired about the lack of common area or recreation facilities shown on the proposal. **Mr. McMurran** said the proposed Section 2 provides for a swimming pool, tennis courts, soccer field and a clubhouse. **Mr. Barba** asked what recreation or common areas were built for the existing Colony Pines residential area, and **Mr. McMurran** said there are none, only 1150 homes. **Mr. Millner** added the PD classification encourages a more efficient use of land and the applicant is satisfying that purpose while leaving the character of the development unchanged, but upgraded. **Mr. McMurran** stated that when he began planning Colony Pines, in 1981, the County did not require recreational areas.

Mr. Davis said installation of water and sewer utilities for the project would be beneficial to the County as a whole, since those utilities have been lacking but desirable in that part of the County for a long time. Mr. Davis stated that he did not totally agree that the requested change in building separation would present a firefighting hazard, citing building and other code standards. While York County is in need of more affordable housing, he continued, the subject project was never marketed as such and that should not be an issue. Finally, his understanding is the County has never amended a Planned Development and asked if that is the case. **Mr. Carter** explained that there have been several considered and deliberate amendments to Planned Developments.

Mr. Harvell explained that he has studied information about sprinkler systems. He cited a statistic related to how many houses in the United States burn. He expressed concern over the distance from and the Grafton fire station.

Mr. Ptasznik thought that it must be considered that individuals who purchase the new Colony Pines homes would still have school children, primarily middle- and high-school-age.

Mr. Simasek thought the discussion had focused more on market factors than about good land stewardship, and in determining how the County uses its land, market-driven factors should not override the Comprehensive Plan. He did not think the Commission should be unduly concerned about the details of home building because the various building codes and fire codes are in place for that. Mr. Simasek said that when the application was presented to the County in 1992, it was considered a Planned Development providing housing that might be affordable. He said he does not know how the County will find the land to house people who cannot afford \$350,000 homes unless affordable housing continues to be a priority. While Mr. Simasek understood that developers and builders want to meet a market driven by higher land costs, he believed that as public servants the Commissioners should continue trying to provide housing opportunities for citizens of all income levels.

Mr. Barba believed all parties made rational points. He recognized the success of Kiln Creek Planned Development with 25 percent lot coverage and 20 feet distance between houses. He added that Colony Pines is a Planned Development, with recreation facilities, not the same as The Greenlands. He believed the Colony Pines development should be affordable and would be good for the County.

Mr. Harvell recognized that Messrs. Harbin and Pickett have built many high-quality homes in York County and expressed apprehension that if the County holds out for affordable housing, an opportunity for such high-quality homes would be lost. He did not think it would be obvious to an observer that the homes were constructed on smaller lots. Mr. Harvell said if the development is going to be built, he was in favor of the County benefiting from the higher taxes generated by the development as proposed. Mr. Harvell supported approval.

Mr. Ptasznik moved to adopt Resolution PC03-23(R).

Present

Vote

Andrew A. Simasek, Chair	No
Alfred E. Ptasznik, Jr., Vice Chair	No
Alexander T. Hamilton	No
Robert D. Heavner	Absent
Nicholas F. Barba	No
John R. Davis	Yes
Frederick W. Harvell	Yes

On motion of Mr. Ptasznik, on a vote of 2:4, the following resolution was denied:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO AMEND THE CONDITIONS OF APPROVAL FOR THE COLONY PINES PLANNED DEVELOPMENT TO BE CONSTRUCTED ON APPROXIMATELY 127.6 ACRES ON THE NORTH SIDE OF DENBIGH BOULEVARD (ROUTE 173)

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